THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1216 of 2007

23.2.2007

Between:

Mohd. Nazimuddin, S/o.Md.Raheemuddin
And another

… Petitioners

AND

The Revenue Divisional Officer, Sanga Reddy, Medak District
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1216 of 2007

ORDER:

The petitioners 1 and 2 allegedly purchased an extent of Acs.8.08 guntas and an extent of Acs.8.09 guntas respectively, in survey No.150 situated at Chinna Kanjerla village of Patancheru Mandal in Medak District, under registered sale deeds in 1992. They approached the Mandal Revenue Officer (MRO), Patancheru Mandal – the second respondent herein; and obtained Pattadar Pass Books (PPBs) and Title Deeds, duly getting mutation in their favour. They also allege that the pahanies from 1992 to 2005 would show that they are in possession and enjoyment of the property. Respondents 3 to 6 herein filed an appeal before the first respondent under Section 5-B of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity) and the A.P. Rights in Land and Pattadar Pass Books Rules, 1989 (the Rules, for brevity), to set aside the orders of the MRO implementing the sale deeds under which petitioners purchased the property. In their appeal, they alleged that Ram Singh, father of the third respondent, and Dhan Singh, father of the fourth respondent, are owners of agricultural lands in survey No.150 situated at Chinna Kanjerla village, that they purchased the land from the original pattadar, Mohd. Qayyum, under unregistered sale deeds and that they are in possession of the property for four decades. They also allege that the petitioners obtained PPBs and got mutation in their favour by influencing the second respondent in implementing the sada sale deeds. After issuing notice to the petitioners and giving them opportunity, the first respondent passed orders on 26.12.2006 cancelling the PPBs issued in favour of the petitioners and remitting the matter to the MRO for *de novo* enquiry. Aggrieved by the same, the present writ petition is filed.

Learned Counsel for the petitioners contends that the appeal filed by the respondents 3 to 6, after lapse of thirteen (13) years, is barred by limitation under Section 5-B of the Act. He nextly contends that the first respondent has no jurisdiction to entertain the appeal under Section 5-A of the Act, against the order passed by the second respondent in 1992, and that the document set up by the respondents 3 to 6 does not confer any title on them. He would then urge that even though notice is not issued by the MRO to respondents 3 to 6, the general notice issued prior to passing order in favour of the petitioners would be sufficient compliance with the Rules and, therefore, the order passed by the MRO is not vitiated. **Per contra**, learned Assistant Government Pleader for Revenue (General-T) submits that *inter alia* on the ground that respondents 3 to 6 had no reasonable opportunity, though their names were mentioned in the possession column, the first respondent remanded the matter to the second respondent and, therefore, it is always open to the petitioners to agitate the matter afresh. According to him, in view of the remand awarded by the first respondent, a writ petition would not be proper at this stage. He also points out that if the petitioners aggrieved, they can as well avail the remedy provided under Section 9 of the Act.

The first respondent considered the appeal filed by the respondents 3 to 6 elaborately adverting to the various contentions raised by the petitioners. The first respondent observed that the petitioners herein failed to prove their possession for a period of twelve years as claimed and that the respondents 3 to 6 filed the appeal immediately after coming to know about the alienations made by Mohd. Saleem, GPA Holder of Mohd. Abdul Wahab and brothers, and that the alienations in favour of the petitioners were not in the knowledge of the respondents 3 to 6. The first respondent also found that no notice was given to respondents 3 to 6 though their names were mentioned in the possession column of the revenue records and that proper enquiry was not conducted by the second respondent while issuing PPBs in favour of the petitioners. Therefore, the appellate authority thought it fit to remit the matter to the second respondent for *de novo* enquiry. The fair approach of the first respondent is unassailable. If the petitioners rely on longstanding possession, nothing prevented them to adduce appropriate evidence and prove their case before the first respondent by raising all grounds.

The submission that the first respondent has no jurisdiction cannot be countenanced at this stage. As pointed out by the learned Assistant Government Pleader when the appeal filed by respondents 3 to 6 was pending before the first respondent, the petitioners themselves filed W.P.No.4572 of 2006 seeking a direction to the first

respondent to dispose of the appeal expeditiously. They also filed a contempt case being C.C.No.990 of 2006 when the appeal was not disposed of. Now they cannot turn around and complain about the jurisdiction of the first respondent especially when they are acquiesced in the jurisdiction of the appellate authority. This is certainly not a case of lack of inherent jurisdiction and it is always open to the petitioners to point out the flaws in the case of respondents 3 to 6 before the second respondent.

The writ petition is misconceived and is accordingly dismissed. No costs.

_____

(**V.V.S.RAO,J**)

February 23, 2007.
YS